

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF DONALD R. ASBELL
from the decision of the Board of Equalization of Ada County
for tax year 2006.

) APPEAL NO. 06-A-2093
) FINAL DECISION
) AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing September 12, 2006, in Boise, Idaho, before Hearing Officer Sandra Tatom. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. At hearing, Donald Asbell appeared for himself. Chief Deputy Assessor Marilee Fuller and Appraiser Tina Winchester appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. R8584520070.

The issue in this appeal is the market value of residential property.

The decision of the Ada County Board of Equalization is affirmed in part and reversed in part.

FINDINGS OF FACT

The assessed land value is \$440,000, and the improvements' valuation is \$741,200, totaling \$1,181,200. Appellant requests the land value be reduced to \$220,000, and the improvements' value be reduced to \$667,800, totaling \$887,800.

Appellant disagrees with the increase in assessed value from the previous year. He claimed the lot value doubled and the improvements value increased significantly.

The subject property is a single family residence located in Eagle, Idaho. The property includes .75 acre and a three-bedroom, four-bath residence built in 2003.

Appellant purchased the lot for \$180,000. The residence was constructed at a cost of \$350,000. Additionally, \$225,000 was invested in landscaping and \$50,000 more for rocks and

flagstone. The total acquisition cost of subject was therefore \$805,000.

During the Board of Equalization hearing, a question arose regarding the actual square footage of the residence. Previously, the residence was assessed as 5,100 square feet. After re-measurement, it was determined the actual square footage was 5,363 square feet. Taxpayer also testified the upper floor "attic" had been finished as a children's playroom and storage area and was not a significant amount of useable space.

Appellant presented evidence establishing that he had attempted to sell the property for two and one-half (2½) years. The property was listed during 2004 with Coldwell Banker. The only offer received from that listing was for \$850,000 and the sale fell through when the prospective buyer decided to purchase another property.

Appellant then listed the property for sale through Holland Realty for \$1,142,000. Between September 2004 and November 2005, no offers were received. Mr. Asbell testified the listing included a provision that any offer would be considered.

Copies of listing flyers for two properties located near subject were submitted. The listings were for \$579,900 and \$674,950. Appellant also presented information he believed supported a slump in the real estate market.

The County Appraiser testified subject is located in a prestigious, gated community. In determining the assessed value, the Appraiser considered four (4) recently sold properties. Information on the sales was submitted as part of Respondent's Exhibit 1. Also included was a map with locations of the sales and respective lot sizes.

Comparable #1 sold in August 2005 for \$1,200,000, or \$211 per square foot.

Comparable #2 sold in October 2004 for \$1,450,000, or \$195 per square foot.

Comparable #3 sold in January 2006 for \$1,481,000, or \$238 per square foot.

Comparable #4 sold in December 2005 for \$1,146,000, or \$223 per square foot.

The County Appraiser made certain adjustments to the sale prices of the sold properties. The adjusted square foot value of the sales ranged from \$222 to \$258 per square foot. The Appraiser applied a rate of \$220 per square foot to the subject property.

The sales are of similar age and quality, and located in close proximity to subject. The most significant difference is that each comparable sale, except Comparable #4, have significantly more water frontage than subject. Comparables #2 and #3 also have significantly larger lots than subject.

The County Appraiser submitted a graph which demonstrated an increasing trend in area vacant land sale prices. The average increase in sale price in the Eagle area during 2005 was of 20% per month or 240% per year. Also submitted was a map indicating actual sale prices of lots in subject's subdivision which took place between 2004 and 2006. Another map portrayed the location of the comparable sales and subject and their relationship to water features and frontage.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Appellant claimed the subject property is over-valued.

Idaho is a market value state for property tax purposes and the value standard is defined in Idaho Code § 63-201(10) as follows:

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an

informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

In determining the value of property, the assessor may and should consider costs, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed, Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979).

In the current case, the burden of proof [preponderance] lies with the party challenging the assessment to show that he is entitled to the relief claimed. The Senator, Inc., v. Ada County Board of Equalization, 138 Idaho 566, 569, 67 P.3d. 45, 48 (2003). See also Idaho Code Section 63-511(4) (2005).

Appellant was unable to sell subject during a recent two and a half year period. The only offer received was for \$850,000.

The Board of Tax Appeals is persuaded lots with significantly more water frontage typically have extra ambiance and are more valuable in the market. It appears Respondent made some adjustments to the price of the Comparable sales for size. No adjustment appears to have been made for water frontage or influence which leads the Board to agree with Appellant's claim that the subject lot is over-assessed. This determination also gives some consideration to the somewhat dated purchase and cost information for subject and the listing history.

Therefore, the Board will affirm the Board of Equalization decision on the assessed value of the residential improvements and will reverse on the assessed value of the land lowering this to \$220,000.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the

Ada County Board of Equalization concerning the subject improvements be, and the same hereby is, affirmed, for an assessed value of \$741,200.

IT IS FURTHER ORDERED that the decision of the Board of Equalization concerning subject's assessed land value be, and the same hereby is, reversed lowering the value to \$220,000, for a total assessed value of \$961,200.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 31st day of January , 2007.